

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA WHEAT COMMISSION LAW

**CHAPTER 10, DIVISION 22 OF THE
CALIFORNIA FOOD AND AGRICULTURAL CODE**

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CALIFORNIA WHEAT COMMISSION LAW

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Article 1. Declaration and General Provisions

72001. The wheat industry in this state is expanding rapidly. It provides over three hundred fifty million dollars (\$350,000,000) in farm income annually, increased by almost 20 percent in 1981, and is expected to show continued growth in the future. It is one of California's five biggest agricultural exports. In total production, the state is among the top 10 states nationwide. The industry is a major employer of agricultural labor and is also a source of employment in the transportation, warehousing, and shipping industries.

72002. Opportunity exists for continued expansion, particularly if the industry can develop better varieties more suited to the California climate and the needs of the marketplace. The unique qualities of California wheat need to be promoted to foreign buyers, who purchase most of the wheat grown in this state. Opportunity also exists for increasing sales to domestic customers.

72003. The establishment of a California Wheat Commission is necessary for the efficient development and management of an international sales promotion program, and is essential to ensure that the California wheat industry can compete successfully in the marketplace.

72004. A commission is also necessary to conduct research into the development of varieties more suitable to the export trade, as well as more productive under California growing conditions.

72005. A California Wheat Commission would also be the means for California producers to take a more active role in national wheat organizations and wheat policymaking bodies. Producers in this state lack effective input at the national level, while producers in all other major wheat-growing states have this advantage through their own state commissions.

72006. The production and marketing of wheat produced in this state is hereby declared to be affected with public interest. The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

72007. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research.

72008. No action taken by the commission, nor by any individual in accordance with this chapter or with rules or regulations adopted under the chapter, shall be deemed a violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, or any rule of statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

72021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

72022. "Wheat" means any variety of wheat produced in this state.

72023. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

72024. "Commission" means the California Wheat Commission.

72025. "Commissioner" means any member of the commission.

72026. "Director" means the Director of Food and Agriculture.

72027. "Districts" shall consist of the following:

- (a) District 1 consists of Siskiyou, Tehama, Lassen, Modoc and Shasta Counties.
- (b) District 2 consists of Butte and Glenn Counties.
- (c) District 3 consists of Colusa and Lake Counties.
- (d) District 4 consists of Napa, Sonoma, and Yolo Counties.
- (e) District 5 consists of Amador, El Dorado, Placer, Yuba, Nevada, Sutter, and Sierra Counties and that portion of Sacramento County lying north of Road J-11 and east of the Sacramento River from Walnut Grove to Courtland.
- (f) District 6 consists of Solano County and that portion of Sacramento County not included in District 5.
- (g) District 7 consists of Alameda, Contra Costa, Stanislaus, and San Joaquin Counties.
- (h) District 8 consists of Merced and Madera Counties.
- (i) District 9 consists of Fresno County.
- (j) District 10 consists of Kings and Tulare Counties.
- (k) District 11 consists of Kern County.
- (l) District 12 consists of Santa Barbara, San Luis Obispo, Monterey, and San Benito Counties.
- (m) District 13 consists of San Bernardino, Riverside, San Diego, Los Angeles and Ventura Counties.
- (n) District 14 consists of that part of Imperial County lying north of Keystone Road.
- (o) District 15 consists of that part of Imperial County lying south of Keystone Road.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to ensure proper representation by producers. These boundaries need not coincide with county lines.

72028. "Ex officio member" shall be a nonvoting member of the commission.

72029. "Handle" means to engage in the business of a handler as defined in Section 72030.

72030. "Handler" means any person who engages in the operation of selling, marketing, or distributing wheat which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payments or assessments of which a corporate handler may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation.

72030.5. "Handler" also means any lienholder, secured party or pledgee that is a public agency, public or private, or assignee of a lienholder, secured party or pledgee that is a public agency, who is authorized to gain title to the wheat from the producer through the exercise of specified legal rights, including, but not limited to, a federal nonrecourse loan.

72031. "Marketing research" means any research relating to the sale of wheat.

72032. "Marketing season" or "fiscal year" means the period beginning May 1 of any year and extending through April 30 of the following year.

72033. "Producer" or "grower" means any person who is engaged, within this state, in the business of producing wheat for market during any of the preceding three marketing seasons, and who shall, upon request, provide proof of commodity sale.

72034. "Production research" means any research related to the production and processing of wheat, other than marketing research.

Article 3. The California Wheat Commission

72051. There is in the state government the California Wheat Commission. The commission shall be composed of 15 members who are wheat producers and who are not handlers, two members who are handlers, and one public member. The producers, one from each district, shall be elected by and from producers within the respective districts. The two handler members shall be elected by and from handlers doing business within the state.

The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

The director and other appropriate individuals as determined by the commission shall be nonvoting ex officio members of the commission.

72052. The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or is in violation of this chapter.

If the commission refuses or fails to cease those activities or functions or to make such corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities of the commission until that time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

Actions of the commission in violation of that written notice shall be without legal force or effect.

The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

Upon service of the written notice, the director shall notify the commission, in writing, of the specific acts which he determines are not in the public interest or are in violation of this chapter and his reasons for requiring a cessation or correction of specific activities or functions, and may make recommendations that will make the activities or functions acceptable to the director.

72052.5. When the director is required to determine whether or not to concur with a decision of the commission, he shall indicate his response to the commission within 15 working days after notification of the decision. The response may be a request that additional information be provided.

72053. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

72054. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his duties and responsibilities under this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

72055. Each member of the commission, except the ex officio members, shall have an alternate member, to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he is alternate, serve in place of the member on the commission, and may exercise, all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the commission until a successor is qualified and elected.

72056. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his position due to a change in status making him ineligible to serve, or due to death, removal, disqualification, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission. However, the person shall fulfill all the qualifications set forth in this article as required for the member whose office he is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified, in writing, to the director. The director shall notify the commission if he or she determines that any such person is not qualified.

72057. A producer member and his or her alternate on the commission shall be an individual, partner, or employee of a producer who has a financial interest in producing, or causing to be produced, wheat for market. Not more than two such members shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization and not more than one member in any one district shall be so employed or connected. Qualification as a producer member shall continue during the entire term of office.

A handler member and his or her alternate on the commission shall be an individual, or a partner or employee of a handler, who has a financial interest in handling wheat for market.

The public member or his alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the wheat industry.

72058. The term of office of all commissioners, except any ex officio member, shall be for three years from the date of their election and until their successors are qualified and elected. However, of the first producer members of the commission, five shall serve for one year, five shall serve for two years, and five shall serve for three years, with the determination of term of each member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms, except that any member selected to serve a one-year term or a two-year term may serve one additional three-year term.

72059. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

72060. A quorum of the commission shall be any 10 voting commissioners. Except as provided in Sections 72027 and 72133, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

72061. The director or his representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

72062. No commissioner or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each commissioner, except the ex officio member, and each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars (\$100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

72063. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such banks as the commission may designate and shall be disbursed by order of the commission through such agent or agents as it may designate for that purpose. Any agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, in the amount of not less than twenty-five thousand dollars (\$25,000).

72064. The commission shall defend any of its members against any claims made or actions taken against any commission members on matters in which the members acted on behalf of the commission.

72065. The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of the commission be responsible individually in any way to any producer, handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of the commission.

The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

72081. The powers and duties of the commission shall include, but are not limited to, all of the following:

- (a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including rules for regulation of appeals from any bylaw, rule, regulation, or order of the commission.
- (b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.
- (c) To appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.
- (d) To employ a person to serve, at the pleasure of the commission, as chief executive officer of the commission and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the chief executive officer engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the chief executive officer.
- (e) To fix the compensation for all employees of the commission.
- (f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.
- (g) To establish offices and incur expenses, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.
- (h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of wheat, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.
- (i) To promote the sale of wheat by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for wheat and to educate and instruct the public with respect to the uses of the several varieties and the healthful properties and nutritional value of wheat.
- (j) To appoint an advisory committee composed of handlers to aid the commission in its deliberations.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of wheat.

(l) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from this research or elsewhere respecting cultural and production practices, marketing, and distribution of wheat. In connection with research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for those purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the wheat industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e) of Section 72081.

(p) To educate and instruct wheat customers and buyers with respect to proper methods of handling and selling wheat, to make market surveys and analyses, to present facts to, and negotiate with, state, federal and foreign agencies on matters which affect the marketing of wheat, and to maintain and expand present markets and create new markets for wheat.

(q) The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for criminal violation of this chapter.

Article 5. Implementation and Voting Procedures

72091. Within 90 days after January 1, 1983, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the director shall require that handlers, county agricultural commissioners, and wheat producers in this state submit the names, mailing addresses, and district numbers of all wheat producers. The request for this information shall be in writing. The list shall be filed within 30 days following receipt of the written notice.

Any producer of wheat, whose name does not appear upon the director's list of producers affected, may have his name established on the list by filing with the director a signed statement, identifying himself as a producer. Failure to be on the list does not exempt the producer from paying assessments under this chapter.

72092. The provisions of this chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum conducted by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 72091, participate, and either of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum, and the producers so voting marketed a majority or more of the total quantity of wheat in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter.

(b) A majority or more of the producers who voted in the referendum, and the producers so voting marketed 65 percent or more of the total quantity of wheat in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter.

72093. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe any additional procedure that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period.

72094. Failure to receive a ballot shall not invalidate the referendum.

72095. If the director finds that a favorable vote has been given as provided in Section 72092, he shall certify and give notice of the favorable vote to all producers and handlers whose names and addresses may be on file with the director.

72096. If the director finds that a favorable vote has not been given as provided in Section 72092, he shall so certify and declare all provisions of this chapter inoperative.

72097. Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district, for the purpose of nominating and electing persons for appointment to the commission by the director. All producers on the director's list shall be given written notice of the election meetings at least 15 days prior to the meeting date.

Upon certification of the commission, the director shall establish a list of handlers and shall, by mail or calling a meeting of all handlers, conduct the nomination and election of handlers for appointment to the commission by the director. All handlers on the director's list shall be given written notice of any nomination or election meetings at least 15 days prior to the meeting date.

72097.5. To be eligible for election to the commission, producer nominees shall present to the director a nomination petition with the signatures of at least six eligible producers from the district from which the nominee is seeking election.

72098. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures which shall be established by the rules and regulations adopted by the commission with concurrence of the director.

72099. Prior to the referendum vote conducted by the director pursuant to Section 72092, the proponents of the commission shall deposit with the director such amount as the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting the vote.

Any unused funds in carrying out the provisions of Section 72092 shall be returned to the proponents of the commission who deposited the funds with the director.

Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director and which were used in carrying out the provisions of Section 72092, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

72101. The commission shall, not later than April 30 of each year, establish the assessment for the following year beginning May 1 and ending April 30. In no event shall the combined assessment of the commission and any other state authorized wheat production research and market program exceed 1 percent of the gross dollar value of the year's sale of wheat by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations.

72103. Every handler shall keep a complete and accurate record of all wheat received by him or her and the name of the producer whose wheat was shipped. The records shall be in simple form and contain such information as the commission shall prescribe. The records shall be preserved by the handler for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

72104. All proprietary information obtained by the commission or the director from handlers and all lists of producers in the possession of the director shall be confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other such information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

72105. Assessments provided for in this article shall be upon the producer. The handler first handling the wheat being assessed shall deduct the assessments from amounts paid by him to the producer and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

72106. Every handler shall be personally liable for the payment of the collected assessments, and failure of the handler to collect the assessment from any producer shall not exempt any handler from liability for payment of the assessment.

72107. Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed. Failure of a handler to make payment of the collected assessment to the commission shall not relieve the producer of this obligation.

72108. Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of such assessment determined to be due and, in addition, 11/2 percent interest per month on the unpaid balance.

72109. Any person, firm, or corporation subject to the assessment in this chapter may request a total or partial refund of a paid assessment from the commission. No refund shall be made by the commission unless requested within 90 days from the date of collection of the assessment. However, the commission may extend that period upon a showing of good cause. The refund of assessment shall be made by the commission within 60 days of the date of the request for the refund. The commission shall establish procedures and provide forms for each request, shall maintain complete records, and shall ensure confidentiality.

Article 7. Actions and Penalties

72111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars (\$500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping of wheat or in the wholesale or retail trade of wheat, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received wheat and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

72112. The commission shall adopt regulations for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions the commission made after the hearing may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate court.

72112.5. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting this chapter and the rules and regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorneys' fees and other related costs. Venue for the actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

Article 8. Continuation, Suspension, and Termination

72131. Between May 1, 1987, and April 30, 1988, the commission shall cause a referendum to be conducted among producers in the manner prescribed in Section 72131.5 to determine whether the operation of this chapter shall be reapproved and continued effective. If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain effective. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the current marketing season ending April 30, 1988. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 72134. No bond or security shall be required for any such referendum.

72131.5. The operation of this chapter shall be reapproved and continued in effect if the director finds, in the referendum required pursuant to Section 72131, that a majority of the eligible producers voting in the referendum, voted in favor of continuing the operation of this chapter.

72132. Following a favorable referendum conducted prior to April 30, 1988, a referendum shall be conducted by the commission every fifth year thereafter between May 1 and April 30, following procedures provided by this chapter and Section 72131.5, unless a referendum is conducted as the result of an industry petition pursuant to Section 72133. In that case the referendum shall be every fifth year following the industry petitioned referendum.

72133. Upon the finding of a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter shall be suspended. However, any suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may upon a petition filed with him requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, and after a public hearing, cause a referendum to be conducted among the listed producers to determine if the operation and the operations of the commission shall be suspended. However, the director shall not cause a referendum to be conducted as a result of the petition unless the petitioner shows by the weight of evidence that the operation of this chapter has not tended to effectuate its declared purposes. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director is authorized to prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall suspend the operation of this chapter, if he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority or more of the total quantity of wheat marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) That a majority or more of the producers who voted in the referendum voted in favor of suspension, and that the producers so voting marketed 65 percent or more of the total quantity of wheat marketed in the preceding season by all of the producers who voted in the referendum.

72133.5. (a) The director shall terminate the commission at the end of the current marketing season if requested in writing, within a 90-day period, by at least 51 percent of the eligible producers who are directly affected and who produce at least 51 percent of the volume of the product.

(b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date a request is initiated. Any person may withdraw his or her name for the petition requesting the termination prior to the time the request is presented to the director. The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving the street and number.

If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

(c) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

72134. After the effective date of suspension of the operation of this chapter and of the operations of the commission, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to those persons, any moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state or federal program involved in activities authorized in this chapter. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust moneys.

72135. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers and handlers affected by the suspension whose names and addresses are on file.